

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

ANNE JANAN

Plaintiff,

v.

No. 1:19-cv-00049-MV-KBM

DONALD TRUMP,  
In his capacity as U.S. President, and  
THE U.S. ELECTORAL COLLEGE,

Defendants.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

**THIS MATTER** comes before the Court on Plaintiff's Complaint Against Discrimination in Immigration, and a Request for Judicial Review of the Building of the Wall Through New Mexico Because of the Damage to the Shared Hispanic Culture, Doc. 1, filed January 18, 2019 ("Complaint").

**The Complaint**

Plaintiff alleges that the "President's undue bias is adversely [a]ffecting our country" and states that "an emergency order should be put in place stopping the President from forcing his unjust decision to close the government because the Hispanic peoples do not pose any imminent threat to us." Complaint at 1-2. Plaintiff alleges that "the Electoral College allowed someone with unjust prejudices to serve in the Office of President. Complaint at 1. "Plaintiff asks the court to review the current state of affairs, and review the damage the wall may make to my shared Hispanic culture. And if it is built, to at least incorporate traditional Hispanic adobe styling methods, and for such other relief as this Court deems just and proper." Complaint at 5.

## **Motion to Amend**

Plaintiff filed a motion to amend her Complaint “to add a count about the Unjust Trade War with China, and one called ‘Little Rocket Man’ and an additional count under my Hispanic culture to include wrought iron work.” Doc. 7, filed January 25, 2019. The Court denies the Motion to Amend because Plaintiff did not submit the proposed amended complaint with the Motion to Amend as required by D.N.M.LR-Civ. 15.1.

## **Jurisdiction**

As the party seeking to invoke the jurisdiction of this Court, Plaintiff bears the burden of alleging facts that support jurisdiction. *See Dutcher v. Matheson*, 733 F.3d 980, 985 (10th Cir. 2013) (“Since federal courts are courts of limited jurisdiction, we presume no jurisdiction exists absent an adequate showing by the party invoking federal jurisdiction”); *Evitt v. Durland*, 242 F.3d 388, 2000 WL 1750512, at \*2 (10th Cir. Nov. 28, 2000) (“even if the parties do not raise the question themselves, it is our duty to address the apparent lack of jurisdiction sua sponte”) (quoting *Tuck v. United Servs. Auto. Ass’n*, 859 F.2d 842, 843 (10th Cir.1988)).

Furthermore, “[s]overeign immunity protects the United States and its agencies from being sued without their consent. The party asserting jurisdiction bears the burden of proving that sovereign immunity has been waived.” *Impact Energy Resources, LLC v. Salazar*, 693 F.3d 1239, 1244 (10th Cir. 2012) (citations omitted).

Plaintiff has not met her burden of showing that the Court has jurisdiction. Plaintiff’s Complaint does not “contain a short and plain statement of the grounds for the court’s jurisdiction” as required by Fed. R. Civ. P. 8(a)(1). Plaintiff has not shown that sovereign immunity has been waived.


The Court dismisses the Complaint without prejudice for lack of jurisdiction. *See* Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action”); *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1218 (10th Cir. 2006) (“[D]ismissals for lack of jurisdiction should be without prejudice because the court, having determined that it lacks jurisdiction over the action, is *incapable* of reaching a disposition on the merits of the underlying claims.”).

### **Motions to Dismiss**

Plaintiff filed a Motion to Dismiss Without Prejudice Count “Unjust Grip” of the Complaint, Motion to Dismiss the Electoral College Without Prejudice, Doc. 9, filed January 28, 2019, and a Motion to Dismiss Without Prejudice Count II – My Hispanic Culture, Doc. 10, filed February 1, 2019. Because it is dismissing this case, the Court denies Plaintiff’s Motions to Dismiss as moot.

### **IT IS ORDERED** that:

- (i) Plaintiff’s Motion to Amend, Doc. 7, filed January 25, 2019, is **DENIED**.
- (ii) This case is **DISMISSED without prejudice**; and
- (iii) Plaintiff’s Motion to Dismiss Without Prejudice Count “Unjust Grip” of the Complaint, Motion to Dismiss the Electoral College Without Prejudice, Doc. 9, filed January 28, 2019, is **DENIED as moot**.
- (iv) Plaintiff’s Motion to Dismiss Without Prejudice Count II – My Hispanic Culture, Doc. 10, filed February 1, 2019, is **DENIED as moot**.

  
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MARTHA VAZQUEZ  
UNITED STATES DISTRICT JUDGE